

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MICHAEL FLOOD, JR. and ALECIA
FLOOD, individually and as Parents and
Natural Guardians of T.F., a minor

CIVIL ACTION NO. 2:18-cv-1310

Plaintiffs,

Honorable Mark R. Hornak, J.

v.

GEORGE VILLEGAS, JR. and PAM
VILLEGAS, individually and as Parents
and Natural Guardians of MEGAN
VILLEGAS, DAVID and CHRISTY
SHERK, individually and as Parents and
Natural Guardians of K.S., a minor; DAVID
and CHRISTINE SEAMAN, individually
and as Parents and Natural Guardians of
C.S., a minor; CRIS and KIMBERLY
SALANCY, individually and as Parents
and Natural Guardians of E.S., a minor;
DAVID and LYNN REINA, individually and
as Parents and Natural Guardians of H.R.,
a minor; SENECA VALLEY SCHOOL
DISTRICT; BUTLER COUNTY DISTRICT
ATTORNEY'S OFFICE; and BUTLER
COUNTY, PENNSYLVANIA

Defendants

**DEFENDANT, SENECA VALLEY SCHOOL DISTRICT'S MOTION TO DISMISS
AMENDED COMPLAINT PURSUANT TO FED.R.CIV.P. 12(B)(6)**

Defendant, Seneca Valley School District ("Seneca Valley"), submits this Motion to Dismiss to Plaintiffs' Amended Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state claims upon which relief may be granted.

1. As against Seneca Valley, Plaintiffs' initial Complaint asserted an Equal Protection Clause claim pursuant to 42 U.S.C. § 1983 and a violation of Title IX, 20 U.S.C. § 1681(a). The gravamen of Plaintiff's claims against Seneca Valley is that the

school district did not discipline female adolescents for making allegedly false accusations that the minor Plaintiff, T.F. committed sexual assault while at a municipal pool in the summer of 2017 and at a private residence in March 2018.

2. Upon Seneca Valley's motion to dismiss to Plaintiffs' initial complaint, the claims against Seneca Valley were dismissed without prejudice, subject to Plaintiffs being afforded the opportunity to amend their Complaint. As to Plaintiffs' putative Equal Protection Clause claim, the Court concluded that "there are insufficient facts pled in the Complaint to plausibly allege the existence of a custom or policy, made or adopted by a final policy maker, so as to subject Seneca Valley to liability under [*Monell v. N.Y.C. Dep't of Social Servs.*, 436 U.S. 658 (1978)] for an alleged intentional deprivation of Plaintiffs' right to equal protection under the law." [ECF No. 94, at p. 5].

3. Plaintiffs' Amended Complaint [ECF No. 99] does not include a claim for violation of Title IX, but restates their claim of an Equal Protection Clause claim pursuant to 42 U.S.C. § 1983. Specifically, Count III of the Amended Complaint asserts that (1) T.F. was deprived of equal protection by a custom of selective enforcement by principals of Seneca Valley's sexual harassment policies, and (2) alternatively, Seneca Valley's Board of School Directors was deliberately indifferent to false accusations by females of sexual assault against T.F., a male.

4. The Amended Complaint continues to fail to allege facts that would establish that Seneca Valley engaged in a policy or custom of gender discrimination against male students.

5. The Amended Complaint continues to fail to allege facts as would establish the elements of deliberate indifference and causation of injury to T.F. by Seneca Valley's Board of School Directors.

6. For these reasons, as more fully discussed in Seneca Valley's supporting brief, Count III of the Amended Complaint fails to state a claim against Seneca Valley for which relief may be granted and, as to Seneca Valley, the Amended Complaint should be dismissed.

7. The foregoing motion to dismiss has been discussed with other counsel of record in this matter. Plaintiffs intend to oppose the motion. The other Defendants in this matter do not oppose the motion.

WHEREFORE, Defendant, Seneca Valley School District, respectfully requests that, as against Seneca Valley, Plaintiffs' Complaint be dismissed pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state claims for which relief may be granted.

Respectfully submitted,

/s/ Matthew M. Hoffman
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Dated: June 24, 2019

Attorneys for Defendant,
Seneca Valley School District

CERTIFICATE OF SERVICE

I hereby certify that, on this 24th day of June 2019, I have filed electronically the foregoing Motion to Dismiss to Plaintiffs' Amended Complaint Pursuant to Fed.R.Civ.P. 12(b)(6) with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification to the following attorney(s) of record as follows:

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The following individuals have been served via first class mail, postage pre-paid,
this 24th day of June 2019.

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Individually and as parent of H.R.

Lynn Reina
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